

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ROCK HILL DIVISION

Darnell Eugene King, #04105-000,	)	C/A NO. 0:06-2478-CMC-BD
	)	
Petitioner,	)	
	)	<b>OPINION and ORDER</b>
v.	)	
	)	
Warden of FCI–Williamsburg,	)	
	)	
Respondent.	)	
_____	)	

This matter is before the court on Petitioner’s *pro se* application for habeas corpus relief pursuant to 28 U.S.C. § 2241.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, this matter was referred to United States Magistrate Judge Bristow Marchant for pre-trial proceedings and a Report and Recommendation. On October 5, 2006, the Magistrate Judge issued a Report recommending that the petition be dismissed without prejudice and without requiring Respondent to file a return. The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. Petitioner has filed correspondence with this court indicating that he wishes to withdraw this petition.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the

recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

After reviewing the record of this matter, the applicable law, the Report and Recommendation of the Magistrate Judge, and Petitioner's request to withdraw this petition, the court agrees to allow Petitioner to withdraw his Petition without prejudice and without requiring Respondent to file a return.

IT IS THEREFORE ORDERED that this matter is dismissed without prejudice and without requiring Respondent to file a return.

**IT IS SO ORDERED.**

s/ Cameron McGowan Currie  
CAMERON MCGOWAN CURRIE  
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina  
October 17, 2006

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